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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,123	01/09/2004	Raffaello Verna	031850/271021	9384

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CHARLOTTE, NC 28280-4000

EXAMINER
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NOLAND, THOMAS

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/755,123	<b>Applicant(s)</b> VERNA ET AL.	
	<b>Examiner</b> Thomas P. Noland	<b>Art Unit</b> 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-62 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06142004.07212004</u> . | 6) <input checked="" type="checkbox"/> Other: <u>PTO 1449 for IDS of 11082004</u> .     |

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-43, drawn to a gyratory compactor apparatus defining an axis, classified in class 73, subclass 824.
  - II. Claims 44-47, drawn to a device adapted to interact with a generally cylindrical mold for a gyratory compactor apparatus defining an axis, classified in class 73, subclass 863.
  - III. Claims 48-51, drawn to a pressure measuring device adapted for use with a gyratory compactor apparatus, classified in class 73, subclass 862.541.
  - IV. Claims 52-53, drawn to a device adapted to determine and maintain an angle of gyration of a mold engaged with a gyratory compactor apparatus defining an axis, classified in class 100, subclass 48.
  - V. Claims 54-57, drawn to a gyratory compactor apparatus defining an axis, classified in class 73, subclass 824.

VI. Claims 58-60, drawn to a cleaning device adapted to remove sample residue from a gyratory compactor apparatus defining an axis, classified in class 15, subclass 88.2.

VII. Claims 61-62, drawn to a method of manufacturing a gyratory compactor apparatus, classified in class 29, subclass 466.

4. The inventions are distinct, each from the other because:

Inventions Group 7 and Groups 1-6 considered together are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the gyratory compactor apparatus, or associated or component elements to be used therewith, could be manufactured without necessarily using a jig as set forth in Group 7.

5. Inventions Groups 1-5 considered together and Group 6 are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, each of inventions Groups 1-5 has separate utility such as use as, or with a gyratory compactor apparatus, without necessarily having to be cleaned by an apparatus like that of Group 6. See MPEP § 806.05(d).

6. Inventions Group 1 and each of groups 2-5 are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the

combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it does not require: the movable mounting plate, etc. of Group 2 as evidenced by such only being claimed in dependent claims 10-13, 21-24 and 33-36 of Group 1; a pressure measuring device constructed as in Group 3; a device adapted to determine and maintain an angle of gyration as in Group 4 as evidenced by such, at most, being only claimed in dependent 8, 19, 30 and 42 of Group 1; or a frame having at least one component made of a laminated sheet material as in Group 5. The subcombination has separate utility such as: for groups 2 and 5 use in a gyratory compactor apparatus not necessarily having an offsettable member as in Group 1; for group 3 use as a pressure measuring device in a gyratory compactor apparatus without necessarily requiring a frame, etc. as used in claims 1, 15 or 26 of Group 1 or a mold with a second end defining a radiused bearing surface as set forth in claim 38 of Group 1.

7. Inventions Group 2, Group 3, Group 4 and Group 5 are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group 3 has separate utility such as use in a gyratory compactor apparatus not necessarily requiring the use of the mounting plate, etc. of Group 2, a device adapted to determine and maintain an angle of gyration as in Group

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4, or a frame with at least one component made of a laminated sheet as in Group 5, etc. Likewise Group 2 is not required to be used a combination with Groups 3 or 4 or 5, Group 5 is not required to be used in a combination with Groups 2 or 3 or 4 and Group 4 is not required to be used in a combination with Groups 2 or 3 or 5 similarly or for the reasons each is a distinct subcombination with respect to the combination set forth in paragraph 6 above.

8. Because these inventions are distinct for the reasons given above and the search required for Group 1 is not required for Groups 2-7, etc., restriction for examination purposes as indicated is proper.

9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

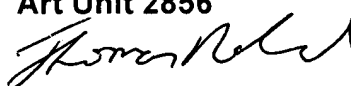
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (571) 272-2202. The examiner can normally be reached on weekdays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Hezron E. Williams, can be reached on (571) 272-2208.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2800 Customer Service at (571) 272-2815.

**Thomas P. Noland**  
**Primary Examiner**  
**Art Unit 2856**



Oct. 3, 2005